

House State & Local Government Committee Amendment No. 1

AMENDMENT NO. _____

Signature of Sponsor

AMEND Senate Bill No. 2691*

House Bill No. 2928

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

by deleting all language after the enacting clause and by substituting the following:

SECTION 1. Tennessee Code Annotated, Title 6, Chapter 54, Part 1, is amended by adding the following new section:

(a) Notwithstanding any other provision of law to the contrary, a municipality, in exercising its powers of eminent domain pursuant to title 29, chapters 16 and 17, or in any other manner provided by law, to condemn unincorporated territory which is located in any county where any part of the municipality was not located prior to May 1, 1995, shall first notify, in writing, the county clerk of the county where the territory proposed to be taken for public use is located. The county clerk shall immediately send a copy of the notice to the county executive and to the members of the county legislative body. The county legislative body shall approve or disapprove the municipality's proposed action no later than its next regularly scheduled meeting and may hold a special meeting for this purpose. If the county legislative body takes no action or approves the municipality's action, the municipality may proceed with its proposed action. If the county legislative body disapproves the municipality's action, the municipality may not proceed except as provided in this section. The provisions of this section shall not apply to any condemnation proceedings for territories that lie within the corporate boundaries of the municipality, nor to any condemnation proceedings in a county where any part of the municipality was located prior to May 1, 1995.

(b) A vote of disapproval by the county legislative body shall not be arbitrary or capricious, but shall be based upon its reasonable consideration of the impact of the

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proposed action upon the county, including, but not limited to, consideration of any materials or evidence that may be presented to it at such meeting by any interested party, including the municipality proposing such action.

(c) The action of the county legislative body in connection with the disapproval of any order of any kind may be reviewed by statutory writ of certiorari, with the court examining the action to see if it meets the standard of subsection (b) above. The municipality shall address the petition of certiorari to the chancery court of the county in which the territory in question is located. The trial of the case shall be expedited by giving it priority over all cases on the trial docket, except workers' compensation cases. If the court finds that the county legislative body's disapproval was arbitrary or capricious, it shall enter an order allowing the municipality to proceed.

(d) Immediately upon the grant of the writ of certiorari, the county legislative body making the disapproval shall cause to be made, certified and forwarded to the court a complete transcript of the proceedings before the county legislative body.

(e) The provisions of this section shall be the sole remedy and exclusive method of review of any action that may have been taken by the county legislative body. The provisions of the Tennessee Rules of Civil Procedure shall be applicable in connection with such review. Any party dissatisfied with the decree of the court may, upon giving bond as required in other cases, appeal, where the cause shall be heard upon the transcript of the records from the chancery court.

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(f) This act shall not apply to the exercise of the powers of eminent domain by a municipality insofar as such powers are exercised to acquire interests in property to be used directly or indirectly for the benefit of the operations of a municipal utility including, without limitation, electric utility services, gas utility services, water utility services, sewer utility services, storm water management services, telecommunication utility services, and any facility or equipment deemed by the municipal utility to be necessary for the provision of any one (1) or more of the foregoing utility services.

(g) This act shall not apply to the exercise of the power of eminent domain by a metropolitan government:

(1) when a metropolitan government is acquiring interests in property to be used directly or indirectly in the provision of utility service or storm water management; or

(2) when a metropolitan government undertakes a joint public project which is approved by the county or counties through an inter-local agreement or other contract; or

(3) when a metropolitan government undertakes a public project or improvement to be located on property contiguous to the county's boundary, but primarily inside the metropolitan government, and additional land located within the county is needed to satisfy zoning requirements.

(h) This act shall not apply to or affect in any way the exercise of the power of eminent domain governed by title 42, chapter 5, affecting county and municipal airports.

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(l) The provisions of this act shall not apply to any project jointly sponsored by a municipality and the governing body of the county in which the proposed project is to be located.

SECTION 2. This act shall take effect upon becoming law, the public welfare requiring it.